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8 Attorney for: Secured Creditor,
9 Green Tree Servicing LLC, its assignees and/or successors
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14 UNITED STATES BANKRUPTCY COURT
15 NORTHERN DISTRICT OF CALIFORNIA
16 OAKLAND DIVISION
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18 In re:) Case No. 10-44354
19)
20 Tom Markou dba Arbo Machine Service, Inc.,) Chapter 13
21)
22 Debtor.) RS No. KAZ-9863
23)
24) **MOTION FOR RELIEF FROM**
25) **AUTOMATIC STAY**
26)
27) Date: 6/11/2014
28) Time: 1:30 PM
29) Ctrm: 201
30) Place: 1300 Clay Street
31) Oakland, CA
32)
33)
34)

35 Green Tree Servicing LLC, its assignees and/or successors in interest ("Secured Creditor"
36 or "Movant" herein), moves this Court for an Order Terminating the Automatic Stay of 11
37 U.S.C. § 362 as to moving party (and the Trustee under the Deed of Trust securing moving
38 party's claim) so that moving party and its Trustee may commence and continue all acts
39

1 necessary to foreclose under the Deed of Trust secured by the Debtor's property, commonly
2 known as 40765 Vaca Drive, Fremont, CA 94539, ("Property" herein).

3 As stated in the attached Declaration, the Debtor has failed to make 3 post-petition
4 payments (3/14 through 5/14).

5 Based on the foregoing, Secured Creditor alleges that it is not adequately protected.
6 Secured Creditor is not receiving regular monthly payments, and is unfairly delayed from
7 proceeding with the foreclosure of the subject Property. Accordingly, relief from the automatic
8 stay should be granted to Secured Creditor pursuant to 11 U.S.C. § 362(d)(1) and (2).

9 Pursuant to 11 U.S.C. § 362(d)(4), Debtor's filing of the petition was part of a scheme to
10 delay, hinder, and defraud creditors that involved the transfer of all or part ownership of the
11 Property without the consent of Movant or court approval.

12 Secured Creditor holds the original Promissory Note dated 08/19/2003, in the principal
13 amount of \$322,700.00, which is secured by the Deed of Trust of the same date as signed Tom
14 Markou ("Original Borrower").

15 On or around October 3, 2008, Original Borrower transferred an alleged interest in the
16 property to Georgia H. Markou without the knowledge or consent of the Movant in violation of
17 the terms of the Deed of Trust Original Borrower signed. A true and correct copy of the
18 unauthorized Grant Deed is attached hereto as **Exhibit "4"** and incorporated herein by reference.

19 Tom Markou, (herein after referred to as "Debtor") filed a petition under Chapter 13 of
20 the Bankruptcy Code in the United States Bankruptcy Court, Case No. 10-44354 on 04/16/2010.

21 WHEREFORE, Secured Creditor prays for judgment as follows:

- 22
- 23 1. For an Order granting relief from the automatic stay, permitting Secured Creditor to
24 proceed with the foreclosure under Secured Creditor's Deed of Trust, and to sell the
25 subject Property at a trustee's sale under the terms of the Deed of Trust to proceed
26 with any and all post foreclosure sale remedies, including the unlawful detainer action
27 or any other action necessary to obtain possession of the Property.
 - 28 2. For an Order that the fourteen day stay described by Bankruptcy Rule 4001(a)(3) be
29 waived.

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3. For attorneys' fees and costs incurred herein.
 4. For such other relief as the Court deems proper.
 5. The Moving Party, at its option, may offer, provide and enter into any potential forbearance agreement, loan modification, refinance agreement or other loan workout/loss mitigation agreement as allowed by state law. The Movant may contact the Debtor via telephone or written correspondence to offer such an agreement. Any such agreement shall be non-recourse unless included in a reaffirmation agreement.
 6. Furthermore, Movant may contact the Debtor to comply with California Civil Code Section 2923.5.

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Dated: May 16, 2014

McCarthy & Holthus, LLP

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By: /s/ Kristin A. Zilberstein
Kristin A. Zilberstein, Esq.
Attorneys for Secured Creditor
Green Tree Servicing LLC, its assignees and/or
successors